



**Cochise County**  
**Community Development**  
 Planning, Zoning and Building Safety Division  
*Public Programs...Personal Service*  
 www.cochise.az.gov

**MEMORANDUM**

**TO:** Cochise County Planning and Zoning Commission  
**FROM:** Robert Kirschmann, Planner II  
**FOR:** Daniel Coxworth, AICP, Development Director  
**SUBJECT:** Docket SU-15-25A (Ingram Road)  
**DATE:** December 24, 2018 for the January 9, 2019 Meeting

**APPLICATION FOR A SPECIAL USE AUTHORIZATION**

The Applicant is requesting a Special Use modification to replace one approximately 92,000 square foot greenhouse with an outdoor grow area of approximately 87,000 square feet (for medical marijuana). In addition, the Applicant requests to utilize the existing home as an office and an existing garage for farm related storage. No product will be stored in either location. The proposed uses are considered a Special Use in RU-4 Rural Zoning Districts under Section 607.53 and 607.56 of the Zoning Regulations.

The subject parcel, APN 201-27-003 is located at 8251 N Ingram Lane, Willcox, AZ. The Applicant is Raymond Klumb.

**I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING LAND USES**

Parcel Size: 99 acres, approximately 41 acres for the special use  
 Zoning: RU-4 (Rural; one dwelling 4 acres)  
 Growth Area: Category D  
 Comprehensive Plan Designation: Rural  
 Area Plan: None  
 Existing Uses: Vacant and fallow farm land, vacant animal shelter structures  
 Proposed Uses: Previously approved: Medical marijuana cultivation and infusion, proposed: ~87,000 outdoor grow area and use of existing structures

**Zoning/Use of Surrounding Properties**

<b>Relation to Subject Parcel</b>	<b>Zoning District</b>	<b>Use of Property</b>
North	RU-4	Low-density residential & AG
South	RU-4	Agricultural land
East	RU-4	Vacant low-density residential & AG
West	RU-4	Low-density residential & AG

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**II. PARCEL HISTORY**

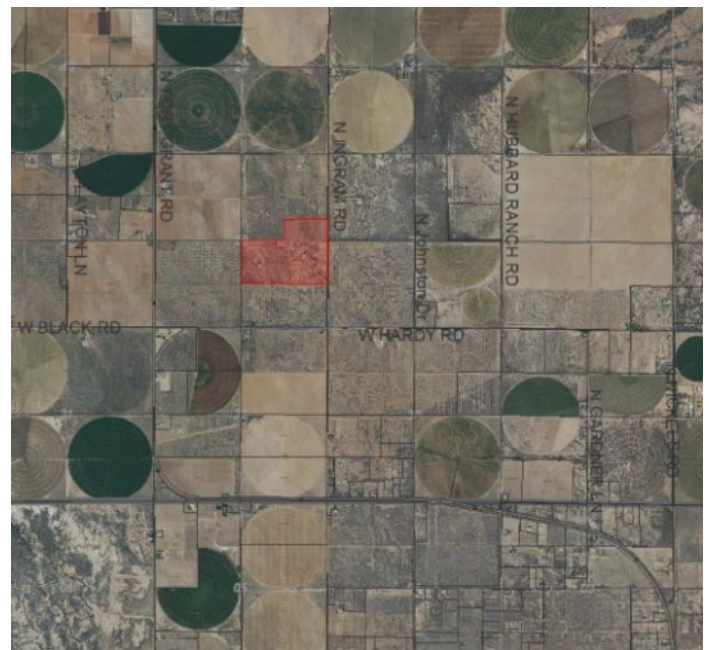
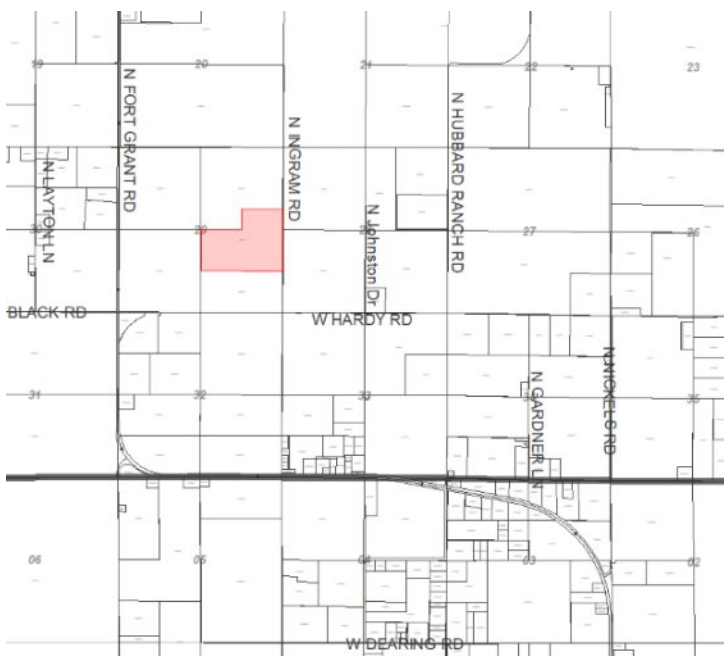
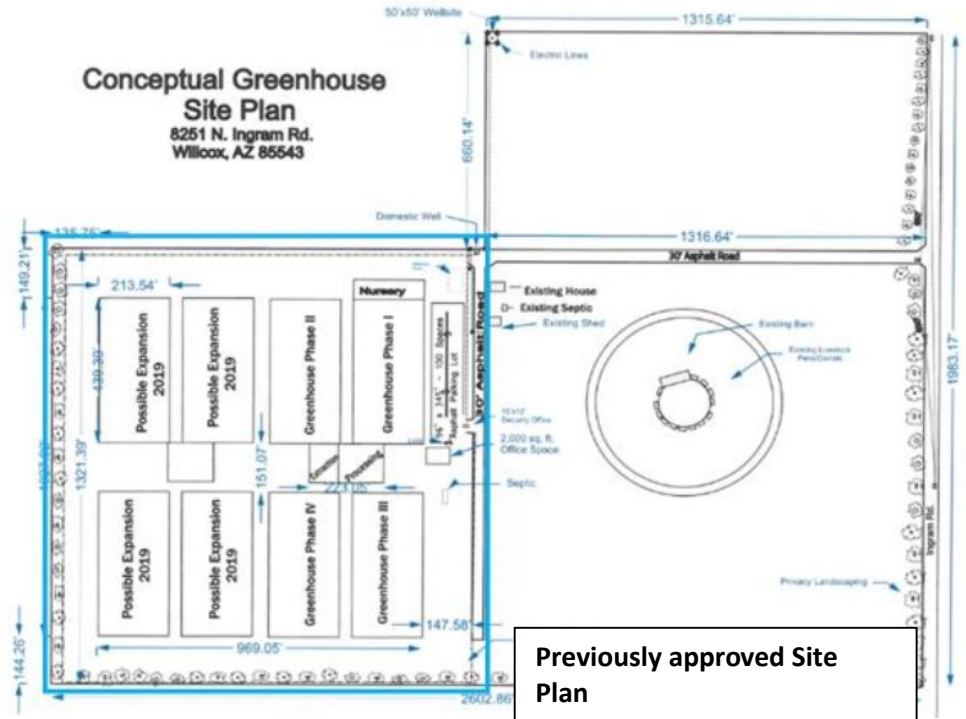
1956-single family residential structure and utility storage building

1956-farm utility building

1990-out building

**III. NATURE OF REQUEST**

The Applicant is requesting a Special Use modification. Special Use SU-15-25(Lock) authorized eight (8) approximately 92,000 square foot greenhouses, a new 2,000 square foot office, processing and extraction buildings, parking and other miscellaneous buildings and improvements. These activities were all proposed to take place on the rear 40 acres of the 99-acre parcel. The Applicant is current requesting a modification to replace one (1) approved greenhouse with an outdoor grow area of approximately 87,000 square feet. In addition, the Applicant requests to utilize the existing home as an office and an existing garage for farm related storage. No product will be stored in either location.



#### **IV. ANALYSIS OF IMPACTS – COMPLIANCE WITH SPECIAL USE FACTORS**

Section 1716.02 of the Zoning Regulations provides a list of ten factors with which to evaluate Special Use applications. Staff uses these factors to help determine the suitability of a given Special Use request, whether to recommend approval for a Special Use Authorization, as well as to determine what Conditions and/or Modifications may be needed.

With the information provided, nine (9) of the ten (10) factors apply to this request. The project, as submitted, fully complies with six (6) of the factors. With the recommended conditions, the project complies with two (2) additional factors. One (1) factor does not comply and one (1) is not applicable.

##### **A. Compliance with Duly Adopted Plans: Complies**

The proposed project satisfies the criteria for Comprehensive Plan D-Rural areas since the proposal is in an outlying rural area between unincorporated communities that have a low growth rate and is in a very low-density area is surrounded by agricultural and vacant lands.

The proposal also supports the following Comprehensive Plan Elements:

The Agriculture and Ranching Element goal that seeks to “Protect and promote the agricultural economy of Cochise County, its agricultural and ranching lands, and related land uses.”; and the policy to “Continue encouraging development of agricultural processing, both on-site and at industrial scale, to support production of value-added agriculture products in Cochise County.



The Economic Development Element that states that “Supporting small businesses will not only spur diversified income opportunities and ensure economic competitiveness, but will also foster resilience in the face of economic challenges such as natural disasters” and the policy to Continue to communicate with the business community, and be responsive to the changing needs of established and new businesses.’

The Rural Character Element that states “The *Envisioning 2020* process consistently revealed that rural character is an important community asset worthy of protection. Participants in Envisioning 2020 mentioned farming and ranching economies, scenic vistas, ecotourism activities, dark night skies, unimproved roads, and large lots as measures of rural character. One goal of the Rural Character Element is to “Provide for a continuation of traditional rural ways of life, such as farming, ranching, and other agricultural-related activities, and provide for diverse and viable economic and development opportunities that are consistent with the character of Cochise County's rural areas.”

The project site is not within the boundaries of any area plan.

**B. Compliance with the Zoning District Purpose Statement: Complies**

By continuing the character of low density housing and agricultural uses, the application complies with two purpose statements in Article 6 by preserving the "Rural" character of the area; and by providing a non-residential service that is compatible with rural living.



**C. Development along Major Streets: Complies**

Ingram Rd. is county-maintained and classified as a Rural Minor Access roadway, with a native surface at the vicinity of this property. Ingram Rd. is paved with a chip seal driving surface starting from about 300 feet north of Hardy Rd to about 300 feet south of that intersection. Hardy Rd. is also paved from the intersection with Ingram Rd. for the one mile reach westerly to N. Fort Grant Rd.

**D. Traffic Circulation Factors: Complies with previous Conditions**

This type of use is similar to small-scaled agricultural use: average trip generation rates specifically for this type of growing operation have not been developed on either a national or state-level at this time. The applicant is proposing a staged greenhouse/ outdoor grow development with three or five phases over time, as market demand allows. Greenhouses tend to stabilize the typical seasonal variations inherent in open agricultural activities. The switch to using some outdoor grow will limit when product can be grown.

The initial phase of construction would consist of approximately 87,000 square foot outdoor grow plus using the existing home and garage for offices and storage. In this phase, the Applicant is planning eight (8) to ten (10) employees. The applicant anticipates up to 50 employees at full build-out of this project, which has the potential to generate an estimated range of 76.5 to 224 vehicle trips per day.

The medical marijuana operation will be on the 40 acres of land in the property most distant from the access road, Ingram Rd. The other 60 acres in the parcel are planned to be used for agricultural purposes. An assumption is made by the Transportation Planning Department, based on this application, that there will be no increase above 50 employees if the 40 acres of greenhouses and 60 acres of other crop growth occur simultaneously at some point in the future.

It is worth noting that vehicle trips are different than number of vehicles that travel to the site. Average vehicle trips per day also include incidental traffic generated due to the presence of any particular use (e.g. mail, deliveries, trash pick-up, etc.) and averages seasonal variations in trips generated.

If the 99 acre parcel were built-out to the existing zoning, 25 residential dwellings on 4-acre lots could be built on the parcel, generating an average of 239.25 vehicle trips per day. As proposed, this cultivation and infusion facility, an agricultural use, is expected to generate significantly less traffic than if the site

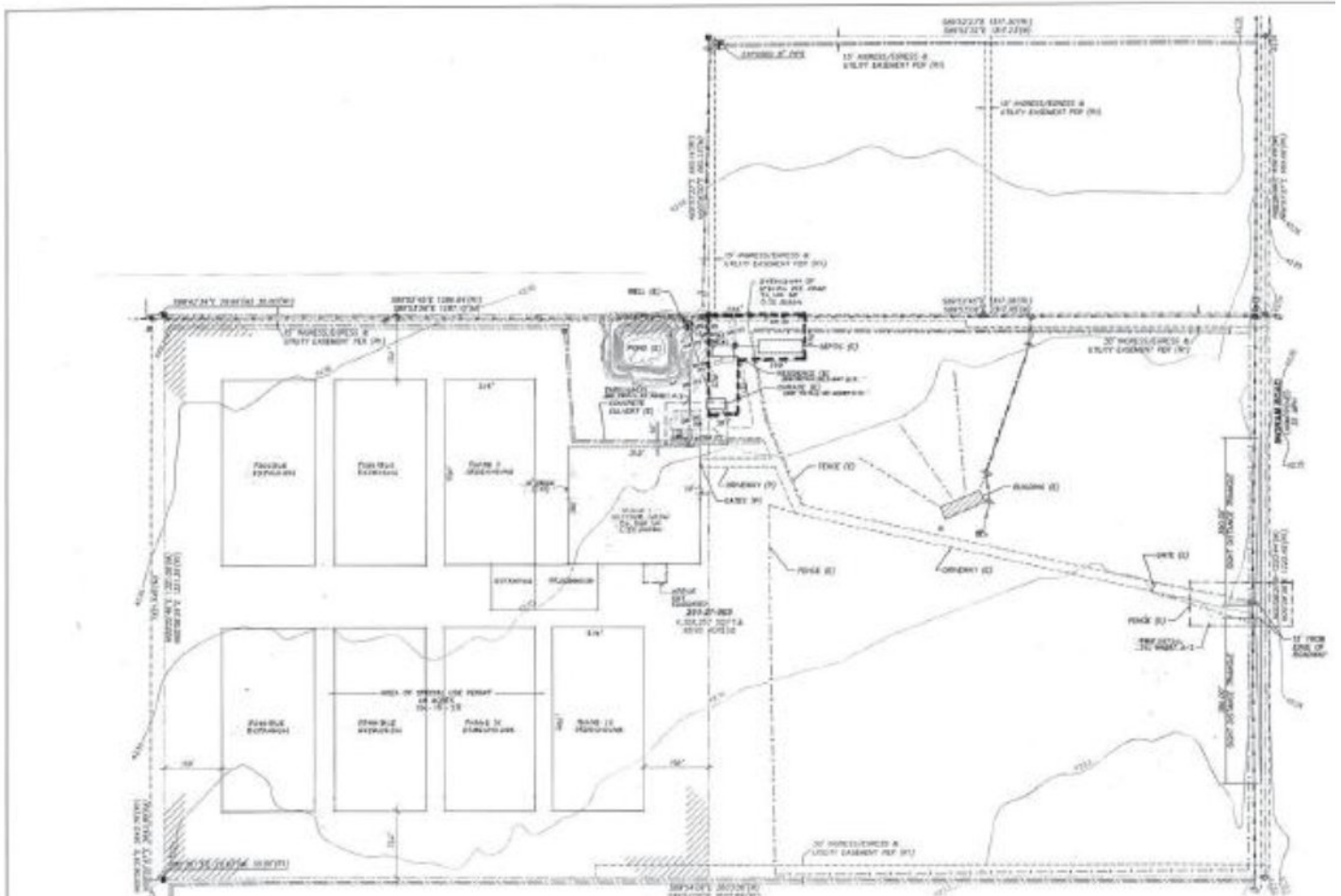
were developed, as it is currently zoned, for residential home sites. It is likely that even at full build-out, as proposed by this applicant; the trip generation for this site would be less than if developed as a residential use. At this time the applicant is requesting to use about 40 acres of the full site for this proposed use.

There are two access points show into the subject parcel. It is unclear if the applicants intend to use one access for point for this proposed use and for general agricultural use or to close it off. It is requested that the Traffic Statement address this secondary access and either close the access or legitimize this access and bring it up to County Design Standards.

Trip generation at this location is not significant enough to warrant a full Traffic Impact Analysis; however, the applicant does plan to phase the project over time. At the Commercial permit stage, the applicant is requested to provide a Basic Traffic Statement. Requirements for the Basic Traffic Statement can be found in the December 18, 2015 Memorandum from the County Transportation Planner. Based on this conceptual plan phased improvements required at the Commercial Phase are anticipated to be:

1. Phase I and II: Completion of a commercial access driveway onto Ingram Rd. Dedication, if required, of any declared Right-of-Way for Ingram Rd. still within the subject parcel. Delay agreement for the construction of a hard surfaced commercial driveway apron, if and when Ingram Rd. is paved.
2. Phase III: An intersection apron with be needed at Ingram Rd. and Fort Grant Rd. that meets or exceeds County Roadway Design Standards.

The applicant is advised that construction mitigation requirements are difficult to assess at this conceptual stage, but traffic control methods may be required to ensure safety for both the traveling public and the vehicle operators during construction phases.



**E. Adequate Services and Infrastructure: Complies**

Electrical service is provided to the site by Sulphur Springs Valley Electric Cooperative; water is supplied by an existing private well and there is an existing septic tank on site.



**F. Significant Site Development Standards: Complies with Conditions**

The applicant has not requested any waivers from site development standards. All site development standards must be met to obtain a non-residential use permit, should this request be approved. The property has adequate area for parking. All of the existing structures on the site meet all of the zoning regulations as they pertain to set-backs, off-site parking, and loading areas, land clearing, water conservation, and Section 1825 of the Zoning Regulations pertaining to medical marijuana. Any future construction will be required to meet all site development standards and building permit regulations.

In addition to County regulations, the applicant will be required to meet all regulations and requirements established by the State of Arizona for these types of facilities including security cameras, perimeter fencing and secured access to the cultivation greenhouses.

The applicant is advised that the conceptual site plan submitted with this Special Use request will not be adequate for a Commercial Permit request. A site plan accompanying the Commercial Permit application must clearly show dimensioned parking stalls and material of parking and driveways.

A commercial driveway intersection will be required from the subject parcel onto Ingram Rd. that meets or exceeds the County's Roadway Design Standards. Design standards require that driveways meet or exceed the existing roadway surface, in this case, native surface at the subject parcel connection. However, the County has been systematically chip-sealing roadways in this area and will request that the applicant sign a delay agreement at the time of Commercial Permitting that they will bring their driveway up to a paved commercial access apron at such time in the future that Ingram Rd. is paved. The delay

agreement would sunset in ten years. The applicant would have a year under the required ROW/Encroachment Permit to complete this delay agreement condition, if and when Ingram Rd. is improved.

**G. Public Input: Complies**

The Applicant mailed letters to property owners within 1 mile of the property prior to application submittal. The Planning Department mailed letters to the same property owners within 1 mile of the subject property, published a legal ad in the *San Pedro Valley News-Sun* and posted legal notices on the property. To date, staff has received six (6) letters. Three (3) in support and three (3) in opposition from property owners within that radius.

**H. Hazardous Materials: Not applicable**

The applicant has stated that no hazardous materials will be used at this facility.

**I. Off-Site Impacts: Does not Comply**

Most of the anticipated offsite impacts can be mitigated except for Odor. When the project was approved to be grown in greenhouses only, commercial filters were proposed to help mitigate any potential odors. Now that outdoor grow is proposed Staff has not been able find a way to mitigate the smell. The Applicant states that the plants only smell when they bloom (approximately eight (8) weeks of the year). There are two (2) residences within approximately 1,800 feet of the proposed outdoor grow. The solid wall may also help to contain the odor. Seven though the closet residences are 1,800 feet away from the outdoor grow, without a reasonable mitigation measure Staff believes that the project does not comply with this criteria.

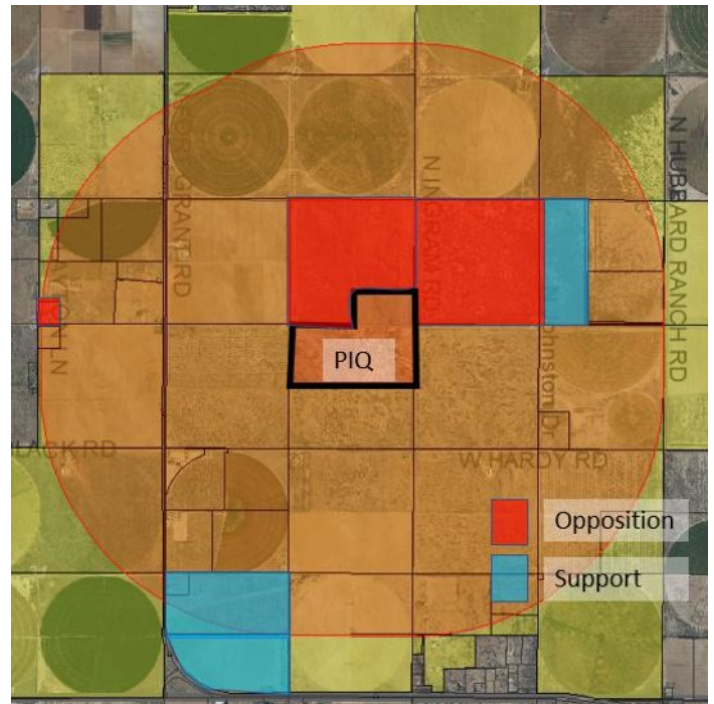
Other than the odor, the proposed facility is not anticipated to produce off-site impacts. The State of Arizona has lighting and screening requirements for medical marijuana facilities. The applicant will be required to install lighting which will be in conformance with the lighting requirements in the County Zoning Ordinance. The Outdoor Grow is also required to be screened by a ten (10) foot tall wall. This wall will be painted a neutral color to help blend into the surroundings.

**J. Water Conservation: Complies**

The project site is not located within the Sierra Vista Sub-Watershed. Drip irrigation will be utilized, conserving water over other methods.

**V. PUBLIC COMMENT**

Staff mailed notices to neighboring property owners within 5,280 feet of the subject property on December 13, posted the property on December 20, 2018, and published a legal notice in the *San Pedro Valley News-Sun* on December 19, 2018. In response to applicant and County mailings, the Planning Department



received one (1) letter of opposition and one (1) letter of support from surrounding property owners.

## **VI. SUMMARY AND CONCLUSION**

This request is for a Special Use authorization to approve the cultivation and infusion of medical marijuana in at 8251 N. Ingram Road, Willcox, AZ.

No waivers or modifications have been requested. Any State of Arizona requirement for cultivation, security and lighting requirements will be met.

### **Factors in Favor of Approving the Special Use**

1. With the recommended Conditions of Approval, the proposed use would fully comply with six of the ten Special Use factors used by staff to analyze this request and would comply with two additional factors if the Conditions of approval are met;
2. The proposal complies with the Adopted Comprehensive Plan Agriculture and Ranching, Economic Development and Rural Character Elements;
3. The proposal complies with the Zoning Ordinance Category D purpose statement;
4. The proposal would have the same visual impact as any other agricultural use that would be allowed by right as a principal permitted agricultural use;
5. The proposal will provide jobs for up eight to ten employees in Phase I up to fifty employees at full build-out; and
6. The proposal is expected to generate significantly less traffic than if the site were developed, as it is currently zoned, for residential home sites.
7. The Planning Department has received three letters in support to the request.

### **Factors Against Allowing the Special Use**

1. The Planning Department has received three letters in opposition to the request;
2. The Applicant does not comply with the Off-Site impacts factor.

## **VII. RECOMMENDATION**

Based on the factors in favor of approval, Staff recommends **Approval** of the Special Use request.

Should the Commission approve the Application, staff recommends the following Conditions:

1. Within 30-days of approval of the Special Use, the Applicant shall provide the County a signed Acceptance of Conditions form and a Waiver of Claims form arising from ARS Section 12-1134. Prior to operation of the Special Use, the Applicant shall apply for a building/use permit for the project within 12-months of approval. The building/use permit shall include a site plan in conformance with all applicable site development standards (except as modified) and with Section 1705 of the Zoning Regulations, the completed Special Use permit questionnaire and application, and appropriate fees. A

permit must be issued within 18-months of the Special Use approval, otherwise the Special Use may be deemed void upon 30-day notification to the Applicant;

2. It is the Applicant's responsibility to obtain any additional permits, or meet any additional Conditions, that may be applicable to the proposed use pursuant to other federal, state, or local laws or regulations;
3. Any changes to the approved Special Use shall be subject to review by the Planning Department and may require additional Modification and approval by the Planning and Zoning Commission;
4. Prior to or concurrent with the first Commercial Permit application the applicant is required to provide a Basic Traffic Statement to the County Transportation Department describing the phased project traffic impacts and proposed mitigation;
5. The applicant is required to obtain a Cochise County Right-of-Way/Encroachment Permit in advance or concurrent with their Commercial Permit application and coordinate with the Highway Department to provide a commercial access apron at the driveway intersection/connection with Ingram as per the Cochise County Roadway Design Standards or as approved by the Highway Department County Engineer;
6. The applicant will be asked to sign a delay agreement to provide a 24 foot wide hard surfaced driveway, with 35 fee radii, should Ingram Road be paved within the next ten years; and
7. At the Commercial permit, the Applicant shall submit documentation to the Floodplain department demonstrating compliance with the Floodplain regulations.
8. The septic system is designed for a maximum of 22 employees or 450 gallons of discharge per day. Additional system(s) will be required prior to this number being exceeded.
9. Off-site mitigation will be required at Phase III/construction of the third greenhouse for an improved intersection access apron at Fort Grant Road and Ingram Road that meets County Roadway Design Standards or as approved by the Highway Department County Engineer through the Highway Department.

Sample Motion:

*Mr. Chairman, I move to approve Special Use Docket SU-15-25A, with the Conditions of Approval recommended by staff; the Factors in Favor of Approval constituting the Findings of Fact.*

## **VIII. ATTACHMENTS**

- A. Staff Report
- B. Application, Site Plan, Maps
- C. Public Comments